

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

v.

NICOLE D. HILLIARD,  
Defendant.

No. CR-10-90-FVS

ORDER DENYING MOTION TO  
VACATE

**THIS MATTER** comes before the Court without oral argument pursuant to Rule 4(b) of the Rules Governing § 2255 Proceedings for review of the defendant's motion to vacate her conviction and sentence. She is representing herself.

**BACKGROUND**

On July 9, 2010, a two-count indictment was filed charging the defendant with distributing cocaine base on February 26, 2010, and June 17, 2010. A warrant was issued for her arrest. Law enforcement officers obtained a warrant from a state judicial officer authorizing them to search a residence in which the defendant was living. The officers executed the search warrant on July 14, 2010. They allegedly found a large quantity of cocaine base. On July 20th, officers arrested the defendant. A three-count superseding indictment was filed on August 3rd. It added a new count charging the defendant with

1 possession with intent to distribute cocaine base. On November 1st,  
2 she entered a plea of guilty to count 3 in accordance with Federal  
3 Rule of Criminal Procedure 11(c)(1)(C). Pursuant to paragraph 20 of  
4 the plea agreement, she waived any appeal of her conviction and  
5 sentence as long as the Court adhered to the agreement's terms. On  
6 June 13, 2011, the Court sentenced the defendant to a term of 110  
7 months. This was within the range -- 100 to 150 months -- set forth  
8 in the plea agreement. The defendant did not file a notice of appeal.  
9 On June 12, 2012, she lodged an unsigned motion to vacate with the  
10 District Court Executive seeking relief under 28 U.S.C. § 2255. On  
11 June 21st, she submitted a signed signature page. Her § 2255 motion  
12 has been submitted to the Court for review pursuant to Rule 4(b) of  
13 the Rules Governing § 2255 Proceedings.  
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15 **RULING**

16 The defendant's § 2255 motion sets forth a single ground for  
17 relief, viz., "UNLAWFUL SEARCH." However, her § 2255 motion does not  
18 explain which search was unlawful, why it was unlawful, or why she may  
19 challenge it under § 2255 given the terms of her plea agreement.  
20 Given the vagueness of the defendant's § 2255 motion, and given the  
21 terms of her plea agreement, there is no reason to think she is  
22 entitled to relief. Her § 2255 motion will be denied. See 28 U.S.C.  
23 foll. § 2255, Rule 4(b) ("If it plainly appears from the motion, any  
24 attached exhibits, and the record of prior proceedings that the moving  
25 party is not entitled to relief, the judge must dismiss the motion.").  
26

1           **IT IS HEREBY ORDERED:**

2           1. The defendant's motion to vacate (**ECF No. 93**) is **denied**.

3           2. The Court declines to issue a certificate of appealability.

4           **IT IS SO ORDERED.** The District Court Executive is hereby  
5 directed to enter this order and furnish copies to the defendant and  
6 to counsel for the United States.

7           **DATED** this 26th day of June, 2012.

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9                                   s/ Fred Van Sickle  
10                                  Fred Van Sickle  
11                                  Senior United States District Judge  
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